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56873-6-1

SUPREME COURT
OF THE STATE OF WASHINGTON

JACK OLTMAN, BERNICE OLTMAN, and SUSAN OLTMAN

Appellants/Petitioners,

v.

HOLLAND AMERICA LINE USA, INC., a Delaware Corporation, and HOLLAND AMERICA LINE, INC. a Washington Corporation,

Respondents.

ANSWER TO PETITION FOR REVIEW

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I. INTRODUCTION

The Petition for Review does not present a single issue meriting this Court's review. Forum selection clauses in cruise passenger ticket contracts like the one challenged by Petitioners have been ruled prima facie valid and enforceable by the U.S. Supreme Court in Carnival Cruise Lines v. Shute, 499 U.S. 585, 598 (1991)[1]. The Washington State Court of Appeals properly concluded that under Shute and its progeny, the forum selection clause in the Holland America Cruise and Cruisetour Contract was valid and enforceable.

II. STATEMENT OF THE CASE

Petitioners Jack Oltman and Bernice Oltman[2] allege they contracted a gastrointestinal illness while cruising from Valparaiso, Chile to San Diego, USA aboard the Holland America vessel, ms AMSTERDAM. Clerks' Papers (CP) 4-6. By their own admission, Petitioners decided to take this cruise on the spur of the moment, booking it through the Vacations to Go travel agency only thirteen days before the cruise sailed from Valparaiso. CP 231-32. Jack Oltman booked the cruise because he was in Chile on business. CP 231-32.

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[1] The United States Supreme Court has also upheld forum selection clauses in the maritime towage and cargo contexts. See e.g., M/S Bremen v. Zapata Off-Shore Co., 407 U.S. 1 (1972); Vimar Seguros y Reaseguros, S. A. v. M/V Sky Reefer, 515 U.S. 528 (1995).

[2] Petitioner Susan Oltman did not take the cruise, but her only claim, loss of consortium, arises out of the cruise and Jack Oltman's alleged injury that occurred during the cruise.

For security reasons, and under Holland America's policies and procedures, Jack and Bernice Oltman could not have boarded ms AMSTERDAM without presenting their Cruise and Cruisetour Contracts (with their Cruise Tickets). CP 89. These same policies and procedures are still in place today. CP 89.

The Travel Documents booklet issued to all Holland America passengers, including Petitioners Jack and Bernice Oltman, includes a Cruise and Cruisetour Contract. CP 86. The Travel Documents booklet also includes a Cruise Ticket, which all passengers must present, along with their Cruise and Cruisetour Contracts, before boarding the vessel. CP 89. Although Petitioners did not produce complete copies of their travel documents, they did produce their Cruise Tickets, proving they received their Travel Documents booklets, including their Cruise and Cruisetour Contracts, before boarding ms AMSTERDAM. CP 40, 89, 148.

On the first page of the Cruise and Cruisetour Contract issued to all passengers, the word "CONTRACT" appears along the right margin in very large font and bold print. CP 106. Page 13 states, "Passenger's Copy, Terms and Conditions." CP 108. It also states on the same page, "ISSUED SUBJECT TO THE TERMS AND CONDITIONS ON THIS PAGE AND THE FOLLOWING PAGES. READ TERMS AND CONDITIONS CAREFULLY." CP 108. The very next page of the Cruise and Cruisetour Contract confirms to the passenger in large font and all capital letters that "THIS DOCUMENT IS A LEGALLY BINDING

CONTRACT," directs the passenger's attention to certain specific clauses, and contains the forum selection clause requiring the passenger to bring suit in the U.S. District Court for the Western District of Washington:

IMPORTANT NOTICE TO PASSENGERS

THIS DOCUMENT IS A LEGALLY BINDING CONTRACT BETWEEN YOU AND US. THE WORD "YOU" REFERS TO ALL PERSONS TRAVELING UNDER THIS CONTRACT INCLUDING THEIR HEIRS, SUCCESSORS IN INTEREST AND PERSONAL REPRESENTATIVES. THE WORDS "WE" AND "US" REFER TO THE OWNER, HAL AND THE OTHER HAL COMPANIES, ALL OF WHICH ARE DESCRIBED IN CLAUSE A.1 BELOW.

* * *

NOTICE: YOUR ATTENTION IS ESPECIALLY DIRECTED TO CLAUSES A.1, A.3, A.4, A.5, A.6, A.7, A.9, A.10 and C.4 BELOW, WHICH CONTAIN IMPORTANT LIMITATIONS ON YOUR RIGHT TO ASSERT CLAIMS AGAINST US AND CERTAIN THIRD PARTIES.

* * *

ALL DISPUTES AND MATTERS WHATSOEVER ARISING UNDER, IN CONNECTION WITH OR INCIDENT TO THIS CONTRACT, THE CRUISE, THE CRUISETOUR, THE HAL LAND TRIP OR THE HAL AIR PACKAGE SHALL BE LITIGATED, IF AT ALL, IN AND BEFORE THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE, OR, AS TO THOSE LAWSUITS AS TO WHICH THE FEDERAL COURTS OF THE UNITED STATES LACK SUBJECT MATTER JURISDICTION, IN THE COURTS OF KING COUNTY,

STATE OF WASHINGTON, U.S.A., **TO THE EXCLUSION OF ALL OTHER COURTS.**

CP 109. (emphasis added).[3]

The parties contractually chose the U.S. District Court for the Western District of Washington at Seattle as their forum.[4] The only exception to the forum selection clause occurs where the U.S. District Court lacks subject matter jurisdiction. This case is not an exception because federal subject matter jurisdiction exists.[5] Petitioners filed suit in King County Superior Court on March 30, 2005, one day before the one-year anniversary of the day their cruise began. CP 3. Notwithstanding a full year to review the terms of their contract, Petitioners incorrectly filed suit in King County Superior Court instead of the Western District of Washington. CP 3, 109. Accordingly, when Respondents answered, they expressly pled the affirmative defenses of improper venue, forum selection clause and other contract limitations. CP 30. Judgment of dismissal was entered by the trial court and affirmed by the Court of Appeals based on

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[3] In addition, at all times during 2003 and 2004, the complete terms of HAL's Cruise and Cruisetour contract appeared on the Holland America Line website at www.hollandamerica.com. CP 128-35.

[4] In Goldberg v. Cunard Line Limited, 1992 A.M.C. 1461 (S.D. Fla. 1992), the court specifically held that a passenger who enters into a contract containing a forum selection clause "ha[s] . . . chosen" the forum. In fact, the U.S. District Court for the Western District of Washington has also held in a similar case that the passenger chose the forum by entering into the cruise contract. Karter v. Holland America Line-Westours Inc., 1997 A.M.C. 857, 858 (W.D. WA. 1996).

[5] Indeed, plaintiff is estopped from asserting lack of federal subject matter jurisdiction, having filed a parallel, time-barred action in federal court expressly invoking that Court's admiralty jurisdiction. (Appendix A.)

the forum selection clause. The procedural history of this case is set forth in the Oltmans' Petition for Review and is adopted by reference.[6]

III. ARGUMENT

A. None of the Bases For Accepting Review Under RAP 13.4(b) Are Present.

RAP 13.4(b) sets forth the four considerations which inform this Court's decision to accept review. With one exception[7], the only criteria Petitioners identify for review is the fourth consideration – whether "the petition involves an issue of substantial public interest that should be determined by the Supreme Court." RAP 13.4(b)(4). It is rare that this standard is met.

The legal precedents the Petitioners challenge are among the most well-established in the general maritime law. None of the issues meet the standards for review by this Court.

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[6] Petitioners do, however, direct the Court to Appendices B and C to this answer, which are the Western District of Washington's summary judgment orders in Case No. C05-1408JLR, in which the Court held that the one-year time bar term in the Cruise and Cruisetour Contract was reasonably communicated, fundamentally fair and applied to Susan Oltman's loss of consortium claim based on the Court of Appeals decision in this case and the principles of res judicata and collateral estoppel. Petitioners have moved for reconsideration of the orders dismissing Susan Oltman's claim, denying a Fed.R.Civ.P. 60 motion for relief from judgment and the judgment dismissing all three Petitioners' claims.

[7] Petitioners argue the Court of Appeals' decision is in conflict with Washington contract cases from 1941 and 1933. Washington law does not apply to the cruise contract and even if it did, the forum selection clause would still be enforceable, consistent with state law precedent.

B. Review By This Court Is Not Necessary to Interpret the Plain Language of CR 12(h).

CR 12(h), entitled "Waiver or Preservation of Certain Defenses," enumerates certain affirmative defenses that are waived if a party does not bring them in a CR 12 motion, its first responsive pleading or an amended pleading allowed as a matter of right. Nowhere in CR 12(h) does it state that a party waives any affirmative defense if they file an answer after the 20-day period in CR 12(a). The Court of Appeal correctly rejected Plaintiffs' position.

This Court applies rules of statutory interpretation to court rules, City of Seattle v. Guay, 150 Wn.2d 288, 300, 76 P.3d 231 (2003), and it is a cardinal rule of interpretation that a Court will not add language to an unambiguous provision. Cerrillo v. Esparza, 158 Wn.2d 194, 142 P.3d 155, 158 (2006).

Respondents indisputably pled the affirmative defenses of improper venue and forum selection clause in their answer. CP 30. Petitioners' interpretation is at odds with the plain language of the rule upon which they rely. Moreover, the affirmative defense which was the predicate for dismissal of plaintiff's case was not improper venue, but the Passenger Contract forum selection clause. CP 30. This affirmative defense is not enumerated among those that can be waived under CR

12(h)(1), even if this Court accepted plaintiff's tortured interpretation of the rule.[8]

C. This Court Need Not Consider if the Trial Court Abused Its Discretion When it Refused to Strike an Attorney Declaration.

The Court of Appeals correctly held that the trial court did not abuse its discretion when it did not strike the declaration of one of Respondents' attorneys. As the Court of Appeals correctly recognized, the plain language of RAP 10.4(h) prohibits citing unpublished decisions of the Court of Appeals. Because the attorney declaration did not cite any unpublished decision of the Court of Appeals, Respondents did not violate the rule. This is not an issue that requires review by this State's highest Court.

D. The Cruise and Cruisetour Contract's Forum Selection Clause Applies to Susan Oltman.

Petitioners cannot now argue that Susan Oltman's claim is not subject to the forum selection clause. The Court of Appeals correctly noted that under RAP 10.3(a)(5), it need not consider this argument because plaintiff did not offer any authority in support of it. Moreover, the Court of Appeals also correctly recognized, this Court has held an element

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[8] The cases Petitioners rely on do not stand for the proposition for which they are cited; they are also distinguishable. Bavouset v. Shaw's of San. Fran., 43 F.R.D. 296 (S.D. Tex. 1967) and Zwerling v. N.Y. & Cuba Mail S.S. Co., 33 F. Supp. 721 (E.D.N.Y. 1940) involved affirmative defenses of parties against who default judgment was or was about to be entered. There was no motion for or order of default in this case.

of a loss of consortium claim is the "tort committed against the 'impaired' spouse." Lund v. Caple, 100 Wn.2d 739, 744, 675 P.2d 226 (1984). An element of Susan Oltman's claim is therefore proof of the injury alleged by Jack Oltman. Susan Oltman's claim, even if it did not require proof of Jack Oltman's alleged injury, is therefore a matter arising under and in connection with Jack Oltman's injury and therefore subject to the forum selection clause.

Moreover, Susan Oltman's claim was predicated exclusively on Respondents' alleged negligence in connection with the cruise at issue. CP 9. The beginning of the forum selection clause in the Cruise and Cruisetour Contract provides that "ALL DISPUTES AND MATTERS WHATSOEVER ARISING UNDER, IN CONNECTION WITH OR INCIDENT TO THIS CONTRACT [OR] THE CRUISE[.]" shall be litigated in the United States District Court for the Western District of Washington.[9] CP 151.[10]

E. The Controlling Legal Principles Governing the Enforcement of Cruise Contract Terms Need Not be Revisited By this Court.

[9] The clause permits suit to go forward in King County courts only if the Western District of Washington lacks subject matter jurisdiction which is not the case here.

[10] As established in the following section, the only law that applies to plaintiffs' claims is the general maritime law of the United States.[10] Under Chan v. Soc. Exp., Inc., 39 F.3d 1398 (9th Cir. 1994), loss of consortium claims are unavailable where the cruise passenger, as here, is injured outside of state territorial waters.

1. The General Maritime Law of the United States Governs the Issues in this Case.

The enforceability of a forum selection clause in a passenger's cruise contract is analyzed under maritime law. Carnival Cruise Lines v. Shute, 499 U.S. 585, 598 (1991); Wallis v. Princess Cruises, Inc., 306 F.3d 827, 834 (9th Cir. 2002) ("A cruise line passage contract is a maritime contract governed by general federal maritime law"). This has been the case for more than 135 years, The MOSES TAYLOR v. Hammons, 71 U.S. (4 Wall) 411, 427, 18 L.Ed. 397 (1867), and is true whether the case is brought in state or federal court. See, e.g., Wilburn v. Fireman's Fund Ins. Co., 348 U.S. 310, 327 (1955); Carey v. Bahama Cruise Lines, 864 F.2d 201 (1st Cir. 1988); Schlessinger v. Holland America N.V., 120 Cal.App.4th, 557, 16 Cal.Rptr.3rd 5 (2004); see also Wilkinson v. Carnival Cruise Lines, Inc., 920 F.2d 1560 (11th Cir. 1991); Beard v. Norwegian Caribbean Lines, 900 F.2d 71 (6th Cir. 1990); Keefe v. Bahamas Cruise Line, Inc., 867 F.2d 1318 (11th Cir. 1989).

It is equally well-established that uniformity is one of the overarching goals of the general maritime law. Offshore Logistics, Inc. v. Tallentire, 477 U.S. 207, 221 (1986). Review and reversal by this Court would establish precedent at odds with the overwhelming majority of

federal decisions upholding passenger cruise contract terms, including the U.S. Supreme Court precedent in Shute.

2. Forum Selection Clauses In Passenger Cruise Ticket Contracts Are Prima Facie Valid.

Forum selection clauses in passenger cruise ticket contracts are presumed valid and subject to scrutiny only for fundamental fairness. Shute, 499 U.S. at 598. Absent evidence that the shipowner selected a forum on the basis that it would discourage passengers from pursuing legitimate claims, as opposed to having legitimate business connections[11] with the forum; or absent fraud or overreaching, the U.S. Supreme Court found that such clauses are fundamentally fair. Shute, 499 U.S. at 595.[12] The Cruise and Cruisetour Contract involved in this case is essentially the same in all material respects as the contract in Shute. See Appendix to Shute decision and CP 91-125. Because forum selection clauses are prima facie valid, the party seeking to avoid the enforcement of the clause bears the heavy burden of demonstrating that

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[11] Respondent Holland America Line Inc. has its principal place of business in Seattle, Washington.

[12] The policy reasons underpinning the Supreme Court's decision in Shute are also present in this case. Without forum selection clauses, cruise lines would be subject to suits all over the world. A valid and enforceable clause dispels confusion about where suit must be filed, sparing all parties and the courts the time and expense of pretrial motions to determine the proper forum. Finally, cruise passengers benefit from reduced fares that reflect the expenses saved by cruise lines by pre-determining the forum in which it can be sued. Shute, 499 U.S. at 593-94.

the clause is unenforceable. Shute, 499 U.S. at 592. Petitioners cannot meet this burden even if this Court were to accept review.[13]

F. The Terms of the Cruise and Cruisetour Contract at Issue, Including the Forum Selection Clause, Are Fundamentally Fair Because Their Terms Were Reasonably Communicated.

The fundamental fairness standard established in Shute requires only that the contractual provision at issue be reasonably communicated to the passenger. Norwegian Cruise Line Ltd. v. Clark, 841 So.2d 547, 2003 A.M.C. 825, 828 (2003). The Ninth Circuit's two-pronged "reasonable communicativeness test" answers the question at issue, namely, whether passengers received sufficient notice of the ticket contract's terms. See e.g., Deiro v. Am. Airlines, Inc., 816 F.2d 1360, 1364 (9th Cir. 1987); Dempsey v. Norwegian Cruise Line, 972 F.2d 998, 999 (9th Cir. 1992).

Holland America Cruise and Cruisetour Contracts and the terms they contain have been upheld in numerous published decisions pursuant to the United States Supreme Court's decision in Shute and lower federal courts. See, e.g., Wyler v. Holland America Line-USA Inc., 2003 A.M.C. 208 (W.D. WA 2002); Cummings v. Holland America Line-Westours, Inc., 1999 A.M.C. 2282 (W.D WA 1999); Silware v. Holland America

[13] Respondents give notice of the related Western District of Washington decision in Oltman v. Holland America Line Inc. et al. 2006 A.M.C. 2550 (2006), which held that the terms of the same Cruise and Cruisetour Contract in this case reasonably communicated its provisions and was fundamentally fair. The issue in the federal case was the enforcement of a contractual time bar on suit.

Line-Westours, Inc., 1998 A.M.C. 2262 (W.D. WA 1998); Davis v. Wind Song Ltd., 809 F. Supp. 76 (W.D. WA 1992); Dubret v. Holland America Line-Westours, Inc., 25 F. Supp. 2d 1151 (W.D. WA 1998). See also, Geller v. Holland America Line, 298 F.2d 618 (2nd Cir. 1962) cert. denied 370 U.S. 909.

a. The Cruise and Cruisetour Contract Meets the First Prong of the Test.

The first prong of the reasonable communicative test focuses on the ticket's physical characteristics, including size of type, conspicuousness, clarity of notice on the ticket's face, and the ease with which a passenger can read the provisions. Wallis, 306 at 835.

Ticket contract terms far less conspicuous than those here have met the first prong of the reasonable communicativeness test. Compare CP 106-26, 287-90, 304, 306-07, with Wallis, 306 F.3d at 836 (provision "buried" six sentences into paragraph in extremely small 1/16 inch type); Marek v. Marpan Two, Inc., 817 F.2d 242 (3rd Cir. 1987) (small type underneath piece of carbon paper); Angello v. The M/S QUEEN ELIZABETH II, 1987 A.M.C. 1150 (D. N.J. 1986) (booklet which required opening first on right, then left, then right again and required reference to reverse side or additional sheets); see also Effron v. Sun Line Cruises, Inc., 67 F.3d 7 (2d Cir.1995); Spataro v. Kloster Cruise, Ltd., 894

F.2d 44 (2d Cir.1990); Hodes, 858 F.2d 905; McQuillan v. "Italia" Societa Per Azione Di Navigazione, 386 F.Supp. 462 (S.D.N.Y.1974).

Here, the forum selection clause and other relevant features of the Cruise and Cruisetour Contracts are far more conspicuous. The cruise ticket portion of the contract states that it is a "contract" in large bold capital letters. CP 287-88. This designation also appears at page 17 of the Cruise and Cruisetour Contracts issued to appellants. CP 304. Even more significantly, this page clearly states at the top right corner that it is the "Passenger's Copy," and that it embodies "Terms and Conditions." CP 304. Immediately below the passenger's cabin number, it states in all capital letters:

> ISSUED SUBJECT TO THE TERMS AND CONDITIONS ON THIS PAGE AND THE FOLLOWING PAGES. READ TERMS AND CONDITIONS CAREFULLY.

CP 304.

The terms and conditions on the following pages include the forum selection clauses at issue. CP 109. These clauses are set forth in all capital letters on the same page which states at its top in bold, underlined, and capital letters: "**IMPORTANT NOTICE TO PASSENGERS**." CP 109. The forum selection clause at issue meets the first prong of the reasonable communicativeness test.

b. The Cruise and Cruisetour Contract Also Meets the Second Prong of the Test.

The second prong turns on the circumstances surrounding the purchase and subsequent retention of the ticket contract, including the passenger's familiarity with the ticket, the time and incentive under the circumstances to study the ticket, and any other notice the passenger received outside of the ticket. Wallis, 306 F.3d at 836.

This prong of the reasonable communicativeness test is met if, as here, passengers are in possession of their ticket contracts from the time of their injury until they provide the contract to their attorney. Kendall v. American Hawaiian Cruises, 704 F.Supp. 1010 (D. Haw. 1989). In such cases, passengers have ample time from the date of injury to familiarize themselves with the terms of the ticket contract. Kendall, 704 F. Supp. at 1016. This is true even when the relevant portions of the ticket contract are missing. Kendall, 704 F. Supp. at 1017.[14]

Here, through counsel, Petitioners Jack and Bernice Oltman have produced portions of their Cruise and Cruisetour Contracts. CP 40, 287-90, 304, 306-07. Respondents have produced an exemplar ticket identical

[14] See also Geller, 298 F.2d at 619 (upholding enforcement of the one-year time limit in Holland America's ticket contract where plaintiffs never opened contract mailed to them by travel agent and it was collected on embarkation.)

in all material respects to the Cruise and Cruisetour Contracts issued to Jack and Bernice Oltman. CP 91-126. Jack Oltman's Cruise and Cruisetour Contract clearly states that it is "ISSUED SUBJECT TO THE TERMS AND CONDITIONS ON THIS PAGE **AND THE FOLLOWING PAGES. READ TERMS AND CONDITIONS CAREFULLY**." CP 304. The identical language, as well as the forum selection clause at issue, also appears on the exemplar Cruise and Cruisetour Contract. CP 86-87,108-09.

Petitioners' argument that the second prong of the reasonable communicativeness test is not met is based on circumstances entirely of their own creation. It is undisputed appellant Jack Oltman unilaterally decided to book a cruise aboard ms AMSTERDAM thirteen days before the cruise was set to depart. CP 231. He booked the cruise through a travel agency – Vacations to Go. CP 231. Even if Petitioners did not receive their travel documents, including their Cruise and Cruisetour Contracts, until about six days before embarkation or at the time they boarded ms AMSTERDAM, that circumstance is immaterial. See CP 232.

The fact that passengers do not receive their tickets until the time they board the vessel does not render a forum selection clause unenforceable for lack of notice. Hodes, 858 F.2d at 911-912.

If a passenger's travel agent is in possession of the ticket prior to boarding, the passengers are charged with notice of notice of its terms. Hodes, 858 F.2d at 912; Mulhern v. Holland America Cruises, 393 F. Supp. 1298 (D.N.H 1975). Moreover, possession of the cruise ticket contract provides the passenger with the opportunity to become "meaningfully informed" of the provision at issue; "the fact that the passenger may not have read the provision is irrelevant." Mills v. Renaissance Cruises, Inc., 1993 A.M.C. 131, 133 (N.D. Cal. 2002). In Mills, the Court upheld the enforceability of a limitation of liability provision where plaintiffs had the tickets in their possession for only two weeks but had adequate time to read them despite their claims they were "too busy getting ready for their trip." Mills, 1993 A.M.C. at 133.

A passenger need only receive reasonably adequate notice that a forum selection clause exists and is part of the contract. Miller v. Regency Maritime Corp., 824 F. Supp. 202, (N.D. Fla. 1992) (citing Nash v. Kloster Cruise A/S, 901 F.2d 1565 (11th Cir. 1990). In Miller, the plaintiff admitted receiving the ticket but claimed that she did not remember seeing the forum selection clause. Miller, 824 F. Supp. at 203. Similarly, here, Jack Oltman admits that he received his Cruise and Cruisetour Contracts, looked at it, but did not notice the forum selection clause. (CP 231-32.)

Forum selection clauses in cruise ticket contracts are still enforceable even if the tickets are received during the time period in which they are non-refundable. See, e.g., Mills, 1993 A.M.C. at 133-34 (provision enforced where tickets received within 14-day nonrefundable period before cruise); Miller, 824 F. Supp. at 203 (forum selection clause enforced where tickets received 20 days before departure and plaintiff would have forfeited forty percent of purchase price if ticket rejected.)

When, as here, passengers choose to book only a short time before the cruise, courts enforce forum selection clauses. In Clark, the Court, following what it recognized as the majority view, enforced a forum selection clause where the plaintiffs booked their cruise about a month before departure and received their tickets within the cruise line's cancellation penalty period. Clark, 2003 A.M.C. at 826. Other decisions following this undisputed majority view include Ferketich v. Carnival Cruise Lines, 2002 A.M.C. 295 (E.D. Pa. 2002); Cross v. Kloster Cruise Lines, Ltd., 897 F. Supp. 1304 (D. Or. 1995); Walker v. Carnival Cruise Lines, Inc., 681 F. Supp. 470 (N.D. Ill. 1987).

In Colby v. Norwegian Cruise Lines, Inc., the Court enforced the forum selection clause despite plaintiffs' claim that they never read the ticket and surrendered it before embarking. 921 F. Supp. 86, 88 (D. Conn. 1998). Moreover, "notice of important conditions of a passage contract

can be imputed to a passenger who has not personally received the ticket or possession thereof." Gomez v. Royal Caribbean Cruise Lines, 964 F. Supp. 47, 50 (D.P.R. 1997).

Of primary importance, from the time of claimed illness, Petitioners had nearly a year to read the forum selection clause, to confer with counsel and to file in the appropriate forum. See Shankles v. Costa Armatori, S.P.A., 722 F.2d 821, 865 (1st Cir. 1983). The second prong of the reasonable communicativeness test is also easily met.[15] The Court of Appeals correctly applied the governing principles of federal maritime law set forth in Shute and its progeny to uphold the forum selection clause in the Holland America Cruise and Cruisetour Contract.

The Casavant v. Norwegian Cruise Line Ltd., 829 N.E.2d 1171, 1180-81 (2005) decision, cited by Plaintiffs, is inapposite. The passengers there booked their cruise almost a year before their scheduled cruise and the court's decision turned entirely on the cruise line's failure to provide

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[15] There is no merit to Petitioners' contention that Respondents' must "prove" federal jurisdiction over their claims. Cruise passenger personal injury claims and issues with respect to the enforceability of cruise contract terms are governed by the federal general maritime law. Shute, 499 U.S. at 590; Wallis, 306 F.3d at 834. It is equally well-established that a cruise line's transport of its passengers satisfies the Executive Jet maritime jurisdiction test. See Wallis, 306 F. at 840-41. Moreover, the cases cited by Petitioners are inapposite. The Kuehne & Nagel (AG & Co) v. Geosource, Inc., 874 F.2d 283 (5th Cir. 1989) and Lauritzen v. A/S Dashwood Shipping Ltd., 65 F.3d 139 (9th Cir. 1995) decisions involved actions alleged to be misrepresentations and tortious inference, respectively, which occurred solely on land. Here, in contrast, all claims, including fraudulent inducement, are based on the alleged allegations that they accrued during Petitioners' ocean voyage.

information on the forum selection clause at issue until just before the departure date. Casavant, 829 N.E.2d at 1174-75. The opposite situation is present here. The plaintiffs, not the cruise line, caused the ticket contracts to be received shortly before the cruise. The Oltmans had one year to read and discover the forum selection clause. They failed to do so and filed in the wrong court. So also did their attorneys.

Petitioners are residents of North Dakota, booked their trip through a travel agent located in Texas, and the underlying events giving rise to this case occurred during an international voyage. See CP 39-40, 231, 235, 238. Nonetheless, if this Court were to analyze the forum selection clause under Washington law, it should apply a more deferential standard of review than it would under federal law. See e.g., Dix v. ICT Group, Inc., 125 Wn. App. 929, 934, 106 P.3d 841 (2005); Wilcox v. Lexington Eye Institute, 130 Wn. App. 234, 238-39, 122 P.3d 729 (2005) (applying abuse of discretion standard); Schlessinger, 120 Cal.App.4th at 557. A party seeking to avoid enforcement of a forum selection clause must prove that enforcement of the forum selection clause would be unfair or unjust. Wilcox, 130 Wn. App. at 239; Voicelink, 86 Wn. App. at 617. For all the reasons set forth above that the forum selection clause is valid under the federal law analysis, it would also meet a more deferential review under Washington state law.

There is no merit to plaintiffs' claims that they have been denied a Washington state constitutional right to a jury trial. As citizens of North Dakota, had they properly filed, they could have pled their federal case in diversity, thereby securing a jury trial in federal court in Seattle, Washington. See Craig v. Atlantic Richfield Co., 19 F.3d 472, 476 (9th Cir. 1994). In fact, plaintiffs demanded a jury trial when they belatedly filed in federal court. (Appendix A.)[16] A jury trial right in the federal forum was available any time during the one year following the cruise.

G. Petitioners' Savings to Suitors Clause Argument Lacks Merit.

Petitioners originally filed in state court under the "savings to suitors" clause. See CP 3-12. The savings to suitors clause "does not guarantee [Petitioners] a nonfederal *forum*." Morris v. T E Marine Corp., 344 F.3d 439, 444 (5th Cir. 2003). Petitioners' savings to suitors clause argument is misleading because it does not address the correct issue – whether the forum selection clauses in the Cruise and Cruisetour Contracts should be enforced. Absent a forum selection clause, plaintiff did have the right to file in state court. Petitioners, however, cannot ignore the binding and enforceable forum selection clause in the Cruise and Cruisetour Contract. The Western District of Washington is the contractual forum.

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[16] This is the functional equivalent of expressly pleading in diversity.

Shute held that enforcement of the forum selection clause does not deprive plaintiffs of a "court of competent jurisdiction." Shute, U.S. at 595-96. And here, one is provided in the forum selection clause -- the Western District of Washington at Seattle. CP 109. The simple fact is that plaintiffs failed to read the cruise ticket or did so, but failed to act correctly. They had a full year to read the ticket and file in the proper forum. The Court of Appeals correctly decided this matter under controlling federal maritime law and U.S. Supreme Court precedent.

IV. CONCLUSION

For the reasons stated above, Respondents respectfully request that this Court deny the Petition for Review.

Respectfully submitted this 3rd day of January, 2007.

FORSBERG & UMLAUF, P.S.
Attorneys for Respondents Holland America-Line USA Inc. and Holland America Line Inc.

John P. Hayes, WSBA #21009
Andrew G. Yates, WSBA #34239

FILED AS ATTACHMENT TO E-MAIL

CERTIFICATE OF SERVICE

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served the foregoing *ANSWER TO PETITION FOR REVIEW* on the following individuals in the manner indicated:

Mr. Noah Davis
In Pacta, PLLC
705 2nd Avenue, Suite 601
Seattle, WA 98104
Fax: 206-860-0178
( ) Via U.S. Mail
( ) Via Facsimile
(x) Via Hand Delivery

SIGNED this _____ day of January, 2007, at Seattle, Washington.

_____
Rozalynne Weinberg

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

JACK OLTMAN and SUSAN OLTMAN, husband and wife, and BERNICE OLTMAN, Plaintiffs, v. HOLLAND AMERICA LINE INC., a Washington corporation, and HOLLAND AMERICA LINE – USA INC., a Delaware corporation, Defendants.	**IN ADMIRALTY** CASE NUMBER: **C05-1408 JLR** COMPLAINT FOR NEGLIGENCE, LOSS OF CONSORTIUM, NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS, FRAUD AND MISREPRESENTATION and BREACH OF CONTRACT **JURY DEMAND**

COMES NOW, Plaintiff, JACK OLTMAN and SUSAN OLTMAN, residents of the full age of majority domiciled in Dunn County, North Dakota, and BERNICE OLTMAN, resident of the full age of majority domiciled in Orange, County, California, by and through their attorneys, In Pacta PLLC, to present and claim as follows:

I. PARTIES

1. Plaintiffs Jack Oltman and Susan Oltman are husband and wife and residents of Dunn County, North Dakota.

2. Plaintiff Bernice Oltman is a resident of the Orange County, California, is 81 years old, and is the mother of Plaintiff Jack Oltman.

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3. Defendant Holland America Line – USA Inc., is a corporation doing business in the State of Washington. Defendant Holland America Line Inc., is a Washington corporation with its principle office in King County, Washington.

II. JURISDICTION

4. This is a case of admiralty and maritime jurisdiction, as hereinafter more fully appears.

III. BACKGROUND FACTS

5. Defendants own and operate a line of luxury cruise ships.

6. Defendants actively solicit customers throughout the United States by promoting luxurious, safe, fun and exciting cruises.

7. In the last 3 years, Defendants' cruise ships reported at least 15 major outbreaks of gastrointestinal illness, which infected many hundreds of passengers.

8. On or about March 18, 2004, Jack and Bernice Oltman, mother and son, booked a cruise with the Defendants through Vacations To Go travel agency.

9. On or about March 31, 2004, Bernice Oltman and Jack Oltman, mother and son, were guests and passengers on the Defendants' cruise ship, ms Amsterdam, at the invitation of Defendants, said cruise ship being owned, operated and controlled by Defendants.

10. The cruise departed from Valparaiso, Chile, on March 31, 2004, to San Diego, California.

11. Not long into the cruise, the toilets on lower decks overflowed several times.

12. It took Defendants approximately 15 (fifteen) hours to remedy the first overflowing.

13. This overflowing and difficulty in remedying created incredibly unsanitary conditions on board, separate and apart from a piercing stench.

14. During the said cruise, a severe gastrointestinal disease broke out and infected many of the passengers.

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15. After it became apparent that there was a disease outbreak, many of the sick passengers were allowed to walk about the vessel and commingle with other passengers.

16. During the stop in Costa Rica, people suffering from the gastrointestinal illness were present on the travel bus operated by Defendants.

17. After the outbreak, many of ms Amsterdam's luxury facilities were closed to passengers and many services cancelled.

18. As a result of the conditions on board the Amsterdam, Jack and Bernice Oltman contracted a severe gastrointestinal illness, the symptoms and/or side effects of which include, but not limited to: various stomach disorders, hemorrhaging, sleeping disorders, anxiety attacks, and depression.

19. Jack and Bernice Oltman continue to suffer from the abovementioned illness, its symptoms and/or side effects through to this day.

20. Since the trip on ms Amsterdam, Bernice Oltman has been hospitalized and has undergone various medical treatments, tests and examinations.

21. Since the trip on ms Amsterdam, Jack Oltman has undergone various treatments, tests and examinations, including, but not limited to, colonoscopy.

22. Jack Oltman must still undergo a hemorrhoid surgery, an extremely painful and invasive procedure.

23. Jack Oltman and Bernice Oltman incurred substantial medical expenses as a result of contracting the gastrointestinal illness on board the Defendants' cruise ship.

24. The Oltmans' family life has been adversely affected as a result of contracting the gastrointestinal illness while on board the Defendants' cruise ship.

25. The business activities of Jack Oltman and Bernice Oltman have likewise been adversely affected by the abovementioned events, resulting in a significant loss of earnings.

26. The abovementioned events have caused a great deal of pain, suffering and emotional distress to Jack Oltman and Bernice Oltman.

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IV. NEGLIGENCE

27. The facts set forth in Paragraphs 5 through 26 of this complaint are re-alleged and incorporated by reference.

28. Jack Oltman and Bernice Oltman were invitees of the Defendants.

29. Defendants are solely responsible for the injuries sustained by Jack and Bernice Oltman and for its failure to warn Jack and Bernice Oltman of the unsafe conditions on its premises.

30. Defendants owed Jack Oltman and Bernice Oltman the duty of reasonable care, which duty was breached by Defendants creating and/or providing an unseaworthy vessel.

31. Defendants did not warn Jack Oltman and Bernice Oltman of the unseaworthiness of the vessel. Defendants were negligent in not exercising the appropriate care and protecting its business invitees and customers.

32. Defendants owed Jack Oltman and Bernice Oltman the duty of reasonable care, which duty was breached by Defendants. Defendants created and/or knew or should have known of the hazardous conditions, such as frequent outbreaks of gastrointestinal disease on board its vessels, overflowing toilets on lower decks, and crewmembers lacking proper training.

33. Defendants were negligent in not exercising the appropriate care and protecting their business invitees and customers.

34. Jack Oltman and Bernice Oltman in no way contributed to the injury-causing events and conditions and had no opportunity to avoid their injuries and losses, and were in no way at fault.

35. The injury-causing events and conditions and resulting damages were caused solely by the negligence of Defendants some of which negligence consisted of, but is not necessarily limited to the following particulars, to-wit:

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a) Failure to properly warn the passengers of the dangers;

b) Failure to provide adequate and timely sanitation of the premises;

c) Failure to ensure a safe environment under the circumstances;

d) Negligent by reason of its employees' failure to properly maintain the facility in a safe and reasonable manner;

e) Defendant's failure to exercise reasonable care to correct the dangerous conditions;

f) Failure, in general, to exercise due care under existing circumstances;

g) All other acts of negligence which may be proved at the trial of this cause.

36. The above reference negligence constitutes individual and concurrent negligence on the part of the Defendants proximately causing Plaintiffs' contracting of the severe gastrointestinal disease and the resultant damages and injuries.

37. At all times pertinent hereto, Defendants owned, controlled and/or had custody of the vessel and the area where these events occurred. Defendants are strictly liable for their negligence.

V. NEGLIGENCE: RES IPSA LOQUITOR

38. Jack Oltman and Bernice Oltman also plead the doctrine of res ipsa loquitur. The events and conditions which caused injuries to Jack Oltman and Bernice Oltman were caused by an agent or instrumentality within the actual or constructive control of Defendants, their agents or employees, which ordinarily does not occur in absence of negligence, and the evidence as to the true explanation of the accident is more readily accessible to Defendants and/or their agents or employees, than to Plaintiffs.

39. Jack Oltman and Bernice Oltman allege that they in no way contributed to their injuries and damages and had no opportunity to avoid being injured. The injuries to Jack Oltman

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and Bernice Oltman were caused solely and proximately by the negligent acts or omissions on the part of Defendants, and/or its agents and/or employees, which were acting in the course and scope of their employment for Defendants. Defendants are responsible for the negligent acts of their employees.

40. Jack Oltman and Bernice Oltman have been damaged by Defendants' negligence.

VI. LOSS OF CONSORTIUM

41. The facts set forth in Paragraphs 5 through 26 of this complaint are re-alleged and incorporated by reference.

42. At the time of the injury-causing events described hereinabove and at all times thereafter, Jack Oltman and Susan Oltman were married to and living with each other as husband and wife. As a result of the negligence of Defendants as outlined hereinabove, Susan Oltman suffered the loss of consortium, society and aid normally expected and received from her husband, Jack Oltman, which he was not able to deliver or provide during the time of his injury or convalescence.

43. Susan Oltman has been damaged by Defendants' negligence.

VII. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

44. The facts set fourth in Paragraphs 5 through 26 of this complaint are re-alleged and incorporated by reference.

45. Defendants had a duty to not negligently inflict emotional distress on Jack Oltman and Bernice Oltman. It was foreseeable that Defendants' negligent acts described hereinabove would result in pain and suffering.

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46. Defendants breached this duty by failing to adhere to a reasonable standard of care under the circumstances. As a result of Defendants' negligence, Jack Oltman and Bernice Oltman suffered emotional distress manifested by objective physical symptoms.

47. Jack Oltman and Bernice Oltman have been damaged by Defendants' breach.

VIII. FRAUD AND MISREPRESENTATION

48. The facts set forth in Paragraphs 5 through 26 of this complaint are re-alleged and incorporated by reference.

49. Defendants represented the cruise to be safe and luxurious. Defendants knew that the vessels operated by Defendants have had a history of disease outbreaks. Defendants knowingly misrepresented the safety of the cruise.

50. Jack Oltman and Bernice Oltman relied on Defendants' misrepresentations and paid a considerable sum of money to travel aboard ms Amsterdam, Defendants' luxury cruise liner.

51. Jack Oltman and Bernice Oltman have been damaged as a result of Defendants' fraud and misrepresentation.

IX. BREACH OF CONTRACT

52. The facts set forth in Paragraphs 5 through 26 of this complaint are re-alleged and incorporated by reference.

53. Defendants promised a luxury cruise to Jack Oltman and Bernice Oltman. Jack Oltman and Bernice Oltman paid the abovementioned sum of money to Defendants on condition that they receive a safe and luxurious cruise. The actual cruise that Defendants provided to Jack and Bernice Oltman was neither safe nor luxurious. Many of the ship's facilities were closed and services discontinued. The ship's premises were unsafe and unsanitary. Defendants breached their contract with Jack and Bernice Oltman. Defendants are solely responsible for this breach.

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54. Jack Oltman and Bernice Oltman have been damaged by Defendants' breach.

X. PRAYER FOR RELIEF

Jack Oltman, Susan Oltman and Bernice Oltman request trial by jury and that judgment be entered against Defendants as follows:

55. Jack Oltman demands judgment against Defendants for the sum of seventy thousand dollars and costs; Susan Oltmand demands judgment against Defendants for the sum of twenty five thousand dollars and costs; and Bernice Oltman demands judgment against Defendants for the sum of seventy thousand dollars and costs. Said damages include but are not limited to: individually for physical pain, suffering, loss of enjoyment of life, emotional distress, loss of consortium, medical expenses, and loss of earnings, all past, present and estimated future, contract price paid, all incidental costs, and applicable interest.

56. Judgment awarding Plaintiffs' reasonable attorney fees and costs.

57. Awarding Jack Oltman, Susan Oltman and Bernice Oltman any further or additional relief that the court finds appropriate or just.

DATED this 12th day of August 2005.

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APPENDIX B

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JACK OLTMAN, et al.,

Plaintiffs,

v.

HOLLAND AMERICA LINE – USA, INC., et al.,

Defendants.

CASE NO. C05-1408JLR

ORDER

I. INTRODUCTION

This matter comes before the court on Defendants' motion for summary judgment (Dkt. # 13). The court has considered the parties' briefing and supporting evidence, and has heard from the parties at oral argument. For the reasons stated below, the court GRANTS Defendants' motion in part and DENIES it in part.

II. BACKGROUND

On March 31, 2004, Plaintiffs Jack Oltman and his mother Bernice Oltman ("the Oltmans") embarked on a seventeen-day cruise from Valparaiso, Chile to San Diego, California. Defendants Holland America Line, Inc, and Holland America Line – USA, Inc. (collectively, "Holland America") operated the cruise. The Oltmans purchased their cruise tickets shortly before departing for a business trip to Chile, and received their

travel documents as late as the time they boarded their cruise in Chile.[1] At some point before arriving in San Diego on April 17, 2004, the Oltmans fell sick when a gastrointestinal illness broke out among the passengers.

On March 31, 2005, the Oltmans filed a complaint against Holland America in King County Superior Court, alleging that Holland America's negligence led to their illness. They also alleged negligent infliction of emotional distress, breach of contract, and fraudulent misrepresentation. Plaintiff Susan Oltman, Mr. Oltman's wife, brought a loss of consortium claim. Yates Decl., Ex. C. Holland America moved to dismiss the state court action based on a forum selection clause in the Cruise and Cruisetour Contract ("cruise contract") that was included in the Oltmans' travel documents. On August 12, 2005, the state court granted Holland America's motion, dismissing Plaintiffs' claims with prejudice because a forum-selection clause in the cruise contract required Plaintiffs to bring their lawsuit in this court. Yates Decl., Ex. A. Plaintiffs filed their complaint in this court on the same day.

Holland America claims that this action is untimely because the cruise contract specifies a one-year limitations period for commencing a lawsuit based on injuries suffered on the cruise. Lundgren Decl., Ex. A at 16. Plaintiffs contend, however, that the one-year limitations period is invalid under contract law principles, or in the alternative that this action is timely because it is a continuation of their timely state court action. They also contend that, regardless of the one-year limitations period, Susan Oltman can bring her loss of consortium claim because she was not a party to the cruise contract.

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[1]The Oltmans are not certain when they received their travel documents, J. Oltman Decl. ¶ 11, but construing the facts in the light most favorable to them, the court will assume for the purposes of this order that they received them upon boarding the ship. The court acknowledges that Defendants offered several reasons for charging the Oltmans with earlier notice of the terms of their cruise contract, but the court need not reach that dispute.

III. ANALYSIS

In reviewing a summary judgment motion, the court must draw all inferences from the evidence in the light most favorable to the non-moving party. Addisu v. Fred Meyer, Inc., 198 F.3d 1130, 1134 (9th Cir. 2000). Summary judgment is appropriate if there is no genuine issue of material fact and the moving party is entitled to a judgment as a matter of law. Fed. R. Civ. P. 56(c). The moving party bears the initial burden to demonstrate the absence of a genuine issue of material fact. Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986). If the moving party meets its burden, the opposing party must show that there is a genuine issue of fact for trial. Matsushita Elect. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 (1986). The opposing party must present significant and probative evidence to support its claim or defense. Intel Corp. v. Hartford Accident & Indem. Co., 952 F.2d 1551, 1558 (9th Cir. 1991). For purely legal questions, summary judgment is appropriate without deference to either party.

A. The one-year limitations period in the cruise contract bars the Oltmans' claims.

Defendants claim that the cruise contract's one-year limitations period bars Jack and Bernice Oltman's claims for negligence, breach of contract, negligent infliction of emotional distress, and fraud. Plaintiffs argue that the limitations period is invalid. They contend that because the clause was written in small print and contained within a thirty-page booklet, the clause was not reasonably communicated to them. They also contend that because they received the travel documents at the time they embarked on the cruise, they did not have reasonable notice of the contract terms.

1. The cruise contract reasonably communicates the one-year limitation.

A limitations period in a cruise ship passenger contract is valid so long as it is "reasonably communicated." Dempsey v. Norwegian Cruise Line, 972 F.2d 998, 999

(9th Cir. 1992). Whether the contract provides reasonable notice of the limitations period is a question of law, id., for which the Ninth Circuit employs a two-pronged analysis. Wallis v. Princess Cruises, Inc., 306 F.3d 827, 835-36 (9th Cir. 2002) (citing Deiro v. Am. Airlines, Inc., 816 F.2d 1360 (9th Cir. 1987)). First, the court looks at the physical characteristics of the ticket, such as the "size of type, conspicuousness and clarity of notice on the face of the ticket, and the ease with which a passenger can read the provisions in question." Wallis, 306 F.3d at 836 (citations omitted). Courts have consistently enforced limitations clauses where the limitation was explicitly stated in the cruise contract. See id. at 839 (listing cases in which courts upheld express limitations clauses in cruise line ticket contracts). Second, the court looks at "the circumstances surrounding the passenger's purchase and subsequent retention of the ticket/contract." Id. at 836 (citations omitted). Such circumstances include the passenger's familiarity with the ticket, the time and incentive under the circumstances to study the ticket, and any other notice the passenger received. Dempsey, 972 F.2d at 999.

The terms and conditions in the cruise contract are sufficiently conspicuous to pass the first prong of the test. The Oltmans received a booklet of travel documents when they embarked on their cruise. Lundgren Decl. ¶ 3, Ex. A.[2] The Table of Contents for the booklet lists four items: "Arrival Advice," "Itinerary," "Contract (Please Read)," and "Cancellation Information." Lundgren Decl., Ex. A at 5. The cruise contract begins on page 13 of the booklet. Id. at 15. The word "CONTRACT" appears in large, boldface letters in the right margin of the page. Id. Under the label "Cruise Ticket," the page specifies the passengers' names, their cabin number, and the time and place of departure

[2]The court notes that the travel documents to which Holland America cites are not the Oltmans' actual documents. Plaintiffs do not dispute, however, that these documents are identical to the ones governing their cruise.

and arrival. Id. at 15. The following page, labeled "Cruise and Cruisetour Contract," repeats this information. Both pages include this notice directly below the cabin number:

> ISSUED SUBJECT TO THE TERMS AND CONDITIONS ON THIS PAGE AND THE FOLLOWING PAGES. READ TERMS AND CONDITIONS CAREFULLY.

Id. On the next page, under the heading "IMPORTANT NOTICE TO PASSENGERS," the cruise contract states that the document is a legally binding contract. Id. at 17. In large capital letters, the second paragraph directs passengers to specific clauses of the contract "which contain important limitations on [their] right to assert claims against [Holland America]," including Clause A.3. Id. The forum selection clause that the state court enforced in Plaintiffs' prior action also appears on this page. Two pages later, Clause A.3 states that passengers may not maintain a lawsuit for personal injury unless they commence the lawsuit within one year after the injury, or for other suits, after the end of the cruise. Id. at 19. While the type is small, it is readable, and the clause explicitly states the limitation. The contract thus passes the first prong of the "reasonably communicated" test.[3]

As to the second prong of the "reasonably communicated" test, the circumstances surrounding the Oltmans' receipt and retention of their tickets show that Holland America reasonably communicated the one-year provision. Plaintiffs claim that because they did not receive the contract until departure, they did not have enough time to read it thoroughly and fully understand their rights, nor did they have an opportunity to reject the terms if they found them unacceptable. While the Oltmans may have received the ticket as late as the time they boarded the ship, they did not buy their tickets until close to the

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[3]The court notes that this District has repeatedly enforced Holland America's cruise contracts. See Wyler v. Holland America Line–USA, Inc., No. C02-109P, 2002 WL 32098495, at *2 (W.D. Wash. Nov. 8, 2002) (listing cases upholding Defendants' contract).

date of their departure for their business trip. J. Oltman Decl. ¶ 3. Any time constraint, therefore, was of their own making. Regardless, the Oltmans need not have actually read the contract before boarding in order for the limitations period to be enforceable. The Oltmans present no evidence showing that Holland America took their travel documents away or otherwise prevented them from reading the cruise contract either after the cruise began or after they fell ill. Instead, the evidence shows that the Oltmans retained their travel documents and had the opportunity to read them and understand the one-year limitation after they fell sick. Compare Ward v. Cross Sound Ferry, 273 F.3d 520, 526 (2d Cir. 2001) (finding insufficient notice of a limitations provision where a ferry line collected tickets containing the provision just minutes after giving them to passengers.) Thus, the cruise contract satisfies the second prong of the "reasonably communicated" test.

2. The one-year limitation period is fundamentally fair.

A provision limiting the rights of a cruise ship ticketholder must also pass judicial scrutiny for fundamental fairness. Dempsey, 972 F.2d at 999 (citing Carnival Cruise Lines, Inc. v. Shute, 499 U.S. 585, 595 (1991)). Courts focus their inquiry on whether the provision was intended to discourage passengers from pursuing legitimate claims, whether the cruise line gained agreement to the clause through fraud, and whether there was reasonable notice of the limitation. Shute, 499 U.S. at 595.

Plaintiffs argue that because they filed their state court action within the one-year limitations period, it would be fundamentally unfair to apply the limitation to bar the current action. This is not the focus of fundamental fairness inquiry. Plaintiffs do not allege that Defendants used fraud to induce them to agree to this clause, nor do they allege that Defendants included the limitation in order to discourage passengers from bringing claims. It is reasonable for a cruise line to expect passengers who are injured

while on a cruise to inspect their tickets with the aid of an attorney to determine their rights. Passengers can protect their rights by filing suit within one year of their injuries and in the forum specified in the contract. Dempsey, 972 F.2d at 1000. Moreover, because Congress has indicated that vessels may contractually provide for a one-year limitation on filing suit, id. at 999 (interpreting 46 U.S.C. § 183b), Plaintiffs are hard put to argue that it is unfair for a cruise line to do so. Finally, the court has already concluded that the contract provided reasonable notice of the limitation.

Plaintiffs' related claim that the one-year limitations period is unconscionable as a contract of adhesion under Washington law also fails. Plaintiffs base their substantive unconscionability argument on Adler v. Fred Lind Manor, 103 P.3d 773, 786-88 (Wash. 2004), in which the Washington State Supreme Court found a collective bargaining agreement's 180-day limitation for filing employment discrimination claims to be against public policy because it limited the remedies available to the employee. They further claim that the contract is procedurally unconscionable because the Oltmans could not bargain around the term. These claims fail on multiple grounds. First, a cruise line passage contract is a maritime contract governed by federal maritime law. Wallis, 306 F.3d at 834. Therefore, even if the cases Plaintiffs cite were relevant to passenger contracts, Washington contract law does not apply. Second, as the court has already noted, Congress has indicated that cruise operators may legally shorten the general three-year statute of limitations for maritime torts to one year. Dempsey, 972 F.2d at 1000. Finally, the Supreme Court has rejected the assumption that a provision in a form passage contract is unenforceable per se because it was not the subject of bargaining. Shute, 499 U.S. at 593.

Plaintiffs assert that even if the one-year limitations period is valid, their claims survive. They argue that because they filed their federal complaint on the same day their

state court case was dismissed, the current action is a "continuation" of their original action. Plaintiffs are mistaken. This action is not a "continuation" of a previous lawsuit. It is a new lawsuit, and under the unambiguous terms of the contract, it is not timely. Clause A.3 of the contract states that passengers "may not maintain a lawsuit against [Holland America] . . . unless . . . the lawsuit is commenced not later than one (1) year after the day of death or injury . . .". Lundgren Decl., Ex. A at 19. The Oltmans' injuries occurred no later than April 17, 2004, the last day of their cruise. Because they filed their complaint in this court more than a year later, the contractual limitations period bars their claims.[4]

3. Plaintiffs cannot support a claim for fraudulent inducement.

The record does not support Plaintiffs' claim for fraudulent inducement. First, Plaintiffs' claim for fraudulent inducement may fall under the one-year limitations period in the contract, in which case their claim is time-barred. Even if the one-year limitations period does not apply, Plaintiffs' claim fails on the merits. Fraudulent inducement of a maritime contract is state law claim. J. Lauritzen A/S v. Dashwood Shipping, Ltd., 65 F.3d 139, 142-43 (9th Cir. 1995) (citing Kuehne & Nagel v. Geosource, Inc., 874 F.2d 283, 288 (5th Cir. 1989) (holding that where the misrepresentations by the defendant to induce the plaintiffs into signing the contract occurred on land, admiralty jurisdiction was not appropriate)). Thus, the court will look to either Washington law, as specified in the choice of laws provision in the contract, Lundgren Decl., Ex. A at 25-26, or California law, as the location where Plaintiffs entered into the contract. Under either body of law,

[4]Because the court finds that the limitations clause bars Plaintiffs' claims, it does not reach Defendants' collateral estoppel arguments. The court also finds no merit in Plaintiffs' assertion that Defendants' statement in state court that Plaintiffs could re-file in this court creates an estoppel barring enforcement of the limitations period.

a plaintiff claiming fraudulent inducement must prove, among other things, that the defendant knew of the falsity of the representations he or she made to the plaintiff, and that he or she intended for those representations or omissions to induce the plaintiff's reliance. See Webster v. L. Romano Engineering Corp., 34 P.2d 428, 430 (Wash. 1934); Garamendi v. Golden Eagle Ins. Co., 27 Cal.Rptr.3d 239, 253 (Cal. App. Ct. 2005).

Plaintiffs rest their fraudulent inducement claim on these allegations: that Holland America's brochures and advertising represented that they provide safe and enjoyable cruises, and that Holland America failed to disclose in their sales materials that there had been past outbreaks of gastrointestinal illness on their ships. With respect to the affirmative representations that the Oltmans would have a safe and enjoyable cruise, there is no evidence from which a jury could conclude that Holland America knew that the Oltmans' cruise would not be safe and enjoyable or that they knew that there would be an outbreak of illness during the cruise. Similarly, with respect to Holland America's failure to disclose past outbreaks[5], Plaintiffs provide no evidence from which a jury could conclude that Holland America knew that nondisclosure would induce the Oltmans' reliance.

B. The one-year limitation does not apply to Susan Oltman's claim for loss of consortium.

Finally, the court turns to Susan Oltman's loss of consortium claim. The one-year limitations period does not apply to this claim, because she was not a party to her husband's cruise contract. Defendants rely on Miller v. Lykes Bros. S.S. Co., 467 F.2d 464, 466-67 (5th Cir. 1972) for the proposition that a loss of consortium claim is subject

[5]The court notes that there is no evidence that Holland America made affirmative attempts to conceal past outbreaks aboard its ships. Indeed, Plaintiffs themselves point out that information about such outbreaks is readily available over the Internet. J. Oltman Decl., Attach. 4.

to the same contractual limit as the injured party's claim. In Miller, however, as in other cases that Defendants cite, both the injured party and the spouse claiming loss of consortium were passengers and were therefore subject to the same cruise contract.[6] Susan Oltman, by contrast, was not a passenger with her husband.

Turning to the merits of Susan Oltman's claim, the court notes that it is viable only under narrow circumstances. Maritime law recognizes a cause of action for loss of consortium only if the spouse's injury occurred in state territorial waters. Am. Export Lines, Inc. v. Alvez, 446 U.S. 274, 276 (1980); see also Sutton v. Earles, 26 F.3d 903, 914-15 (9th Cir. 1994); see also Chan v. Soc'y Expeditions, 39 F.3d 1398, 1407-08 (9th Cir. 1994) (holding that there is no loss of consortium claim where the injury occurred outside state territorial waters). Within state territorial waters, state law governs a loss of consortium claim. See Yamaha Motor Corp., U.S.A. v. Calhoun, 516 U.S. 199, 202 (1996) (holding that where no federal maritime statute exists, state law remedies apply for injuries to non-seamen in territorial waters); Flores v. Am. Seafood Co., 335 F.3d 904, 916-917 (9th Cir. 2003) (outlining federal maritime choice-of-law principles.) Taking the facts in the light most favorable to Plaintiffs, then, it is possible (if unlikely) that Jack Oltman could have fallen ill during the period of time when the cruise ship sailed in California waters before docking in San Diego. If Susan Oltman can prove as much, she can succeed on her loss of consortium claim.

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[6]Defendants cite Silware v. Holland-America Line Westours, Inc., Nos. C97-963C, 97-1556C, 1998 WL 834326 (W.D. Wash. Jan. 6, 1988), to support their assertion that the contractual limitation applies to Susan Oltman even though she was not a party to the cruise contract. The court notes that it is not clear whether the family members bringing consortium claims in Silware were parties to a cruise contract. Even if they were not, the Silware court's sole citation of authority was to Miller, supra, a case in which both the injured spouse and the spouse claiming loss of consortium were passengers bound by the same cruise contract.

Lastly, the court finds no merit in Defendants' assertion that the cruise contract's one-year limitation would nevertheless bar Susan's action because her injury is derivative of her husband's personal injury claim. While Susan must prove Jack's injury to prevail, both of the states whose laws might apply to her claim recognize loss of consortium as a cause of action independent of the underlying injury to the spouse. Milde v. Leigh, 28 N.W.2d 530, 537 (N.D. 1947) (holding that while the statute of limitations barred wife's claim against her doctor for injury resulting from a botched sterilization, husband could still claim loss of consortium because he did not experience loss until she got pregnant two years after her surgery); Lantis v. Condon, 157 Cal.Rptr. 22, 24 (Cal. Ct. App. 1979) (holding that because loss of consortium is not a derivative cause of action, wife's award would not be reduced for husband's contributory negligence in causing his injury).[7]

IV. CONCLUSION

For the reasons stated above, the court GRANTS in part and DENIES in part Defendants' motion for summary judgment (Dkt. # 13).

Dated this 1st day of August, 2006.

JAMES L. ROBART
United States District Judge

FILED AS ATTACHMENT
TO E-MAIL

[7]Despite Plaintiffs' citation to Washington law, the court finds no basis for applying Washington law to Susan Oltman's loss of consortium claim. As neither party has offered a choice-of-laws analysis, the court declines to do so. It merely notes that as Mrs. Oltman is not a party to the cruise contract, its choice of law clause does not bind her. Susan and Jack Oltman reside either in California or North Dakota, and any relevant injury occurred either in California or North Dakota. Thus, either California or North Dakota law applies.

APPENDIX C

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JACK OLTMAN, et al.,

Plaintiffs,

v.

HOLLAND AMERICA LINE – USA, INC., et al.,

Defendants.

CASE NO. C05-1408JLR

ORDER

I. INTRODUCTION

This matter comes before the court on Defendant Holland America Line - USA, Inc.'s ("Holland America") motion for summary judgment as to the remaining claim in this action (Dkt # 41). In a prior order, the court granted summary judgment on all of Plaintiffs' claims except for Plaintiff Susan Oltman's claim for loss of consortium (Dkt. # 32). The court has considered the parties' briefing and supporting evidence and for the reasons stated below, the court GRANTS Holland America's motion.

II. BACKGROUND

The court summarized previously the facts relevant to this motion in its August 1, 2006 order ("August Order") and will only repeat here those facts necessary to this ruling.

On March 31, 2005, Plaintiff Jack Oltman, along with his mother, Bernice Oltman, filed a complaint against Holland America in King County Superior Court, alleging that Holland America's negligence led to their illness while traveling aboard one of Holland America's cruise ships. They also alleged negligent infliction of emotional distress, breach of contract, and fraudulent misrepresentation. Susan Oltman, Jack Oltman's wife, brought a loss of consortium claim. First Yates Decl., Ex. C.

Holland America moved for summary judgment in the state court action based on a forum selection clause in the Cruise and Cruisetour Contract ("cruise contract") that was included in the Oltmans' travel documents. On August 12, 2005, the state court granted Holland America's motion, dismissing Plaintiffs' claims with prejudice because a forum selection clause in the cruise contract required Plaintiffs to bring their lawsuit in this court. First Yates Decl., Ex. A. The documents submitted to this court are unclear as to whether the state trial court explicitly addressed the application of the contract limitations to Susan Oltman's loss of consortium claim. Apparently the state trial court determined that Susan Oltman's claim was likewise subject to the forum selection clause as it dismissed her claim without distinguishing it from her husband's or mother-in-law's claims.

On the same day as the state court's dismissal of their claims, Plaintiffs filed a nearly identical complaint in this court. Compare Complaint (Dkt. # 1) with First Yates Decl., Ex. C. Meanwhile, Plaintiffs also timely filed an appeal of the state court ruling to the Washington Court of Appeals.

Holland America then moved for summary judgment on the claims pending before this court. Holland America argued that the claims were untimely because the cruise contract specifies a one-year limitations period for commencing a lawsuit arising out of injuries suffered on the cruise. First Lundgren Decl., Ex. A at 19. The court agreed as to

Jack and Bernice Oltman's claims. In its August Order, it dismissed all claims, except Susan Oltman's loss of consortium claim, for failure to file in the proper venue within the applicable limitations period.

The court denied summary judgment as to Susan Oltman's claim for loss of consortium because it was not convinced that she was a party to her husband's cruise contract and therefore bound by the one-year limitations period (Dkt. # 32). On September 11, 2006, however, over a month after this court's order, the Washington Court of Appeals affirmed the state court's dismissal of all Plaintiffs' claims for failing to file in the correct forum. See Oltman v. Holland Am. Line USA, Inc., No. 56873-6-I, 2006 Wash. App. LEXIS 1956, at *25-6 (Wash. Ct. App. September 11, 2006). Unlike the state trial court's order of dismissal, the Court of Appeals specifically addressed the issue of whether the limitations set forth in the cruise contract applied to Susan Oltman's loss of consortium claim. Id. at *25-6. The Court of Appeals reached a different result than this court.[1]

In its order, the Washington Court of Appeals affirmed the trial court's dismissal of Susan Oltman's consortium claim because "an element of [loss of consortium] is the tort committed against the impaired spouse." Id. (citations omitted). The Court of Appeals also relied on the broad language in the cruise contract which incorporated into its coverage "all matters whatsoever arising under, in connection with or incident to this contract." Id. The court ultimately held that Susan Oltman's claim "is not separate from the alleged injury her husband suffered while on the cruise. Her claim both arises under

[1] The Court of Appeals first considered whether to even address Susan Oltman's argument that she was not subject to the forum selection clause because she failed to cite any authority for this proposition. The court nevertheless held that she was indeed subject to the contract. Oltman, No. 56873-6-I, at *25-6.

and in connection with the cruise. Therefore, the contract, including the valid forum selection clause, applies to her." Id.

On December 1, 2006, having reviewed the Washington Court of Appeals' order, this court ordered the parties to supplement their briefing on Defendants' motion for summary judgment as to Susan Oltman's claim to include argument on the res judicata effect of the prior order (Dkt. # 50).[2]

III. ANALYSIS

In reviewing a summary judgment motion, the court must draw all inferences from the evidence in the light most favorable to the non-moving party. Addisu v. Fred Meyer, Inc., 198 F.3d 1130, 1134 (9th Cir. 2000). Summary judgment is appropriate if there is no genuine issue of material fact and the moving party is entitled to a judgment as a matter of law. Fed. R. Civ. P. 56(c). For purely legal questions, summary judgment is appropriate without deference to either party.

A. The August Order Granting Partial Summary Judgment Was Not a Final Judgment by This Court.

Susan Oltman contends that the Washington Court of Appeals should have given preclusive effect to this court's ruling because it was filed a month before the appeals court ruled. This court's August Order, however, granted summary judgment to some, not all, of Plaintiffs' claims and was therefore not a final judgment. Rule 54(b) of the Federal Rules of Civil Procedure explains that an order adjudicating fewer than all of the claims or parties in the matter does not terminate the action as to any of the claims or parties "and the order . . . is subject to revision at any time before the entry of judgment

[2] Although the court requested additional briefing on the res judicata effect of the Washington Court of Appeals' order, both parties submitted briefs that also addressed issue preclusion, or collateral estoppel.

adjudicating all the claims and the rights and liabilities of all the parties." Fed. R. Civ. P. 54(b).

Given that Plaintiffs have had ample opportunity to argue Susan Oltman's loss of consortium claim before the state trial court and the Court of Appeals, this court is persuaded that the proper application of issue preclusion is to effectuate the Court of Appeals' final decision. Accordingly, as discussed below, the court will revise its previous ruling with respect to Susan Oltman's loss of consortium claim.

B. The Washington Court of Appeals' Final Decision on the Application of the Cruise Contract to Susan Oltman's Claim Bars Further Litigation of This Issue.

In determining the preclusive effect of a prior state court judgment federal courts apply the collateral estoppel rules of the state that rendered the underlying judgment. See Migra v. Warren City Sch. Dist. Bd. of Ed., 465 U.S. 75, 81 (1984). Therefore, this court will apply Washington law. The doctrine of collateral estoppel, or issue preclusion, under Washington law prevents relitigation of an issue after the party against whom the doctrine is applied has had a full and fair opportunity to litigate his or her case. Hanson v. City of Snohomish, 852 P.2d 295, 300 (Wash. 1993). Before a court may apply the doctrine of collateral estoppel, the moving party must prove that: (1) the issue decided in the prior adjudication is identical to the one presented in the second; (2) the prior adjudication ended in a final judgment on the merits; (3) the party against whom the doctrine is asserted was a party or in privity with a party to the prior adjudication; and (4) application of the doctrine will not work an injustice. Nielson v. Spanaway Gen. Med. Clinic, Inc., 956 P.2d 312, 316 (Wash. 1998). All four elements must be met before the court may apply the doctrine. George v. Farmers Ins. Co. of Washington, 23 P.3d 552, 559 (Wash. Ct. App. 2001).

There is no dispute that the party against whom the doctrine is asserted, Susan Oltman, is the same party as in the prior litigation. Therefore, the court will address only the remaining three elements.

1. The issue decided in the prior decision is identical to the one before this court.

Susan Oltman argues that "there is no question that [her] claim for loss of consortium was not litigated below and that the only issue[] that the Court of Appeals addressed was whether or not Susan could be held to a contract she did not sign (and not the viability of her claims)." Pls' Supp. Mem. Re: Summ. J. at 8 (Dkt. # 53). Like the Court of Appeals, the threshold issue for this court to determine is whether Susan Oltman is bound by the limitations contained in the cruise contract her husband signed. The outcome of this decision is dispositive of Susan Oltman's claim in this matter. That is, if Susan Oltman is subject to the cruise contract, her right to bring suit is barred by the one-year limitations period. In the prior litigation, the Court of Appeals held, in no uncertain terms, that the contract applied to Susan Oltman's claim. Oltman, No. 56873-6-I, 2006 Wash. App. LEXIS 1956, at *25-6. This is the very issue before the court.

2. The prior adjudication ended in a final judgment on the merits.

A ruling on a forum selection clause generally is considered a ruling based on improper venue and therefore not a final judgment on the merits. See Fed. R. Civ. P. 41(b); Wash. Civ. R. 41(b)(3). While this is true for the merits of the underlying claim, it is not the case that the parties are permitted to relitigate the application of a forum selection clause that resulted in the dismissal for improper venue.

The court finds the analysis in Offshore Sportwear, Inc. v. Vuarnet Int'l, B.V., 114 F.3d 848 (9th Cir. 1997) – a case also cited by Plaintiffs – persuasive in deciding the

question of finality on this issue.[3] The parties in Offshore were signatories to a licensing agreement that included a forum selection clause giving the Courts of Geneva (Switzerland) exclusive jurisdiction over any claims arising out of the agreement. Id. at 849-50. The plaintiff filed suit in the United States District Court for the Central District of California claiming that the defendant committed fraud (among other things) before the parties entered into the agreement. Id. The district court dismissed the action without prejudice because the agreement gave the Courts of Geneva exclusive jurisdiction. Plaintiff did not appeal that order, but instead filed a new action in state court alleging essentially the same claims as the first (albeit the plaintiff characterized his fraud claim as a fraudulent inducement claim). Id. Defendant removed the matter to federal court and again moved to dismiss the new action based on the forum selection clause and the collateral estoppel effect of the prior ruling. The district court dismissed the new action based on the forum selection clause. Id. The plaintiff appealed the dismissal. Id.

On appeal, the plaintiff argued that because the dismissal of its claims was not an adjudication on the merits pursuant to Fed. R. Civ. P. 41(b), the original order had no preclusive effect. Id. The Ninth Circuit disagreed. The court explained that the plaintiff's argument wrongly assumed that a dismissal of a prior action on account of a forum selection clause is meaningless. The Ninth Circuit first noted that dismissals based on forum selection clauses are treated like a dismissal for improper venue, in which case there is no final adjudication on the merits of the underlying claims. Id. The court held, however, that when there is a final adjudication on the applicability and enforceability of the clause itself there is collateral estoppel as to that issue. Id. at 851. Accordingly, the

[3] It appears that the Washington courts have not had occasion to address this issue.

plaintiff in Offshore was precluded from rearguing the court's ruling with respect to the application of the forum selection clause.

Here, as in Offshore, the state Court of Appeals adjudicated the applicability and enforceability of the parties' forum selection clause, finding that it did apply to Plaintiffs' entire action. Moreover, with respect to Susan Oltman, it was necessary for the court to adjudicate the threshold issue of whether the cruise contract applied to her in order to affirm the dismissal of her claim. The court's finding that the contract applies to Susan Oltman collaterally estops this court from reaching any other conclusion.

3. The application of collateral estoppel will not work an injustice.

The issue of whether the contract applied to Susan Oltman was both argued and decided by the Washington Court of Appeals. In fact, as stated above, the Court of Appeals initially considered not addressing Susan Oltman's claim that the cruise contract did not apply to her because, although she raised the issue on appeal, she failed to cite any authority for her argument. The Court of Appeals, nevertheless, addressed her argument and entered a ruling against her. This court is therefore satisfied that Susan Oltman was given the opportunity to persuade the trial court and the Court of Appeals that her claims were not subject to the limitations contained in her husband's contract, but failed to so.

The promotion of judicial economy also weighs in favor of giving the Court of Appeals decision preclusive effect. The purpose of the doctrine of collateral estoppel is to promote the policy of ending disputes, to promote judicial economy and to prevent harassment of and inconvenience to litigants. Hanson, 852 P.2d at 561 (citing Malland v. Department of Retirement Sys., 694 P.2d 16 (1985); and Beagles v. Seattle-First Nat'l Bank, 610 P.2d 962 (1980)).

Because Susan Oltman was afforded the opportunity to argue the issue before both the state and trial court and the fact that allowing the Court of Appeals' decision to stand

gives credence to the purpose behind the collateral estoppel doctrine, the court finds that no injustice will result from its decision.

C. The one-year limitation bars Susan Oltman's claim for loss of consortium.

This court previously addressed the validity of the cruise contract's one-year limitation period finding that the terms in the cruise contract were reasonably communicated to the Plaintiffs and that the one-year limitation period as applied to them is fundamentally fair. Accordingly, given the Court of Appeals' prior ruling that the cruise contract applies to Susan Oltman's claim for loss of consortium, her claim is likewise barred by the one-year limitation period. This finding is also consistent with the holding in Conradt v. Four Star Promotions, Inc., 728 P.2d 617 (Wash. Ct. App. 1986), the case cited by the Court of Appeals to support its finding that Susan Oltman's claim is governed by the cruise contract. In Condradt, the Washington Court of Appeals dismissed a spouse's loss of consortium because the husband's negligence claim was barred by a release agreement he entered into with the defendant. Id. at 621-2. Accordingly, the court finds Susan Oltman's claim for loss of consortium is time-barred.

IV. CONCLUSION

For the reasons stated above, the court GRANTS Defendants' motion for summary judgment (Dkt. # 40). This order resolves all remaining claims in this action.

Dated this 15th day of December, 2006.

JAMES L. ROBART
United States District Judge

FILED AS ATTACHMENT TO E-MAIL

Rec. 1-3-07

-----Original Message-----
From: Rozalynne V. Weinberg [mailto:RWeinberg@forsberg-umlauf.com]
Sent: Wednesday, January 03, 2007 2:47 PM
To: OFFICE RECEPTIONIST, CLERK
Cc: John P. Hayes; Andrew G. Yates
Subject: Oltman v. Holland America Line, et al.

RE: Oltman v. Holland America Line, et al.
King County Cause No.: 05-2-10552-6 SEA
Supreme CourtCause No.: 56873-6-1

Our File: 945.0067

I am filing the attached Answer to Petition for Review for behalf of Andrew G. Yates (WSBA No. 34239) and John P. Hayes (WSBA No. 21009).

Both can be reached at 206-689-8500 and their email addresses are ayates@forsberg-umlauf.com and jhayes@forsberg-umlauf.com

Sent By:
Rozalynne V. Weinberg
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